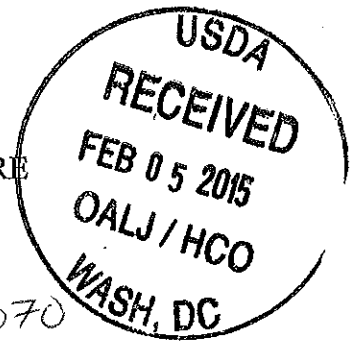


UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE



In re:) P & S Docket No. D-15- 0070
)
)
Birdsboro Kosher Farms Corporation,)
)
Respondent) Complaint and Notice of Hearing

There is reason to believe that the respondent named herein has willfully violated provisions of the Packers and Stockyards Act, 1921, as amended and supplemented (7 U.S.C. § 181 *et seq.*), therefore, this complaint is issued alleging the following:

I.

(a) Birdsboro Kosher Farms Corporation, hereinafter referred to as respondent, is a business incorporated in the Commonwealth of Pennsylvania and located at 1110 Lincoln Road, Birdsboro, Pennsylvania 19508.

(b) Respondent at all times material herein was engaged in business as a live poultry dealer in the Commonwealth of Pennsylvania.

II.

(a) On or about June 5 through June 6, 2013, respondent purchased poultry (Flock Number 100-2-1062) from poultry grower Robert Landis for a total price of six thousand, four hundred eighty-one dollars and seventy-six cents (\$6,481.76) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(b) On or about September 27 through October 3, 2013, respondent bought poultry (Flock number 100-1-1116) from poultry grower Robert Landis for a total price of eight thousand, one

hundred twenty-seven dollars and twenty cents (\$8,127.20) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(c) On or about September 30 through October 7, 2013, respondent purchased poultry (Flock number 100-2-1117ST) from poultry grower Robert Landis for a total price of eight thousand, one hundred fifty-one dollars and fifty-one cents (\$8,151.51) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(d) On or about September 27 through September 29, 2013, respondent purchased poultry (Flock number 107-2-1114) from poultry grower Darron Grove for a total price of eight thousand six hundred forty-six dollars and twenty-three cents (\$8,646.23) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(e) On or about September 16 through September 30, 2013, respondent purchased poultry (Flock number 107-1-1115) from poultry grower Darron Grove for a total price of four thousand, eight hundred fifteen dollars and seventy-one cents (\$4,815.71) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(f) On or about October 1 through October 2, 2013, respondent purchased poultry (Flock number 107-1A-1115) from poultry grower Darron Grove for a total price of three thousand, eight hundred eighty-two dollars and forty-five cents (\$3,882.45) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(g) On or about October 3 through October 8, 2013, respondent purchased poultry (Flock number 102-1T-1118) from poultry grower Laurelview for a total price of three thousand, seven hundred eighty-nine dollars and sixty cents (\$3,789.60) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(h) On or about October 7 through October 15, 2013, respondent purchased poultry (Flock number 102-1B-1119) from poultry grower Laurelview for a total price of four thousand, seventy-nine dollars and forty cents (\$4,079.40) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(i) On or about October 2 through October 10, 2013, respondent purchased poultry (Flock number 102-2T-1120) from poultry grower Laurelview for a total price of four thousand, one hundred eighty-three dollars and thirty-two cents (\$4,183.32) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(j) On or about October 8 through October 9, 2013, respondent purchased poultry (Flock number 102-2B-1121) from poultry grower Laurelview for a total price of four thousand, one hundred sixty dollars and twenty-one cents (\$4,160.21) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(k) On or about May 19 through May 23, 2013, respondent purchased poultry (Flock number 108-3B-1054) from poultry grower Doug Hawthorne for a total price of five thousand, seven hundred eighty-six dollars and seventy cents (\$5,786.70) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(l) On or about November 4 through November 19, 2013, respondent purchased poultry (Flock number 115-1T-1138) from poultry grower Curvin Hoover for a total price of six thousand, six hundred fifty-seven dollars and twenty cents (\$6,657.20) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(m) On or about November 6 through November 19, 2013, respondent purchased poultry (Flock number 115-1B-1139) from poultry grower Curvin Hoover for a total price of seven

thousand, eight hundred eighty-five dollars and forty-eight cents (\$7,885.48) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(n) On or about November 12 to November 13, 2013, respondent purchased poultry (Flock number 110-1T-1140) from poultry grower Robert Weaver for a total price of six thousand, two hundred and twenty-six dollars and sixty-two cents (\$6,226.62) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(o) On or about November 13 to November 21, 2013, respondent purchased poultry (Flock number 110-1B-1141) from poultry grower Robert Weaver for a total price of eight thousand, one hundred and fifty-one dollars and sixteen cents (\$8,151.16) and failed to pay when due the full purchase price of such poultry, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(p) On or about May 5 through May 13, 2013, respondent issued a check to poultry grower Gerald Funk in the amount of four thousand, nine hundred fifty dollars and eighty-three cents (\$4,950.83) in payment for poultry purchased (Flock number 105-1T-1047), which was returned unpaid by the bank upon which it was drawn because respondent did not have and maintain sufficient funds in the account from which the funds were drawn to pay the check when presented, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(q) On or about May 5 through May 13, 2013, respondent issued a check to poultry grower Gerald Funk in the amount of five thousand, three hundred twenty-eight dollars and thirty cents (\$5,328.30) in payment for poultry purchased (Flock number 105-1T-1048), which was returned unpaid by the bank upon which it was drawn because respondent did not have and

maintain sufficient funds in the account from which the funds were drawn to pay the check when presented, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

(r) On or about May 12 through May 22, 2013, respondent issued a check to poultry grower Lester Weiler in the amount of ten thousand, six hundred thirty-one dollars and twenty-five cents (\$10,631.25) in payment for poultry purchased (Flock number 113-3B-1052), which was returned unpaid by the bank upon which it was drawn because respondent did not have and maintain sufficient funds in the account from which the funds were drawn to pay the check when presented, in violation of 7 U.S.C. § 228b-1(a). (See Exhibit).

WHEREFORE, it is hereby ordered that for the purpose of determining whether the respondent has in fact willfully violated the Act and the regulations issued hereunder, this complaint and notice of hearing shall be served upon the respondent. The respondent has twenty (20) days in which to file with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, an answer in accordance with the rules of practice governing proceedings under the Act (7 C.F.R. § 1.130 et seq.). Failure to file an answer shall constitute an admission of all the material allegations of this complaint and notice of hearing.

Respondent is hereby notified that unless hearing is waived, either expressly or by failure to answer and request a hearing, a hearing will be held in accordance with the Rules of Practice, at a place and time to be designated later. At the hearing, Respondent will have the right to appear and show cause why an appropriate order should not be issued in accordance with the provisions of the Act requiring Respondent to cease and desist from violating the Act with respect to the matters alleged herein and assessing such civil penalties as are authorized by the Act and warranted under the circumstances.

Done at Washington, D.C.
this 5th day of February, 2015

Susan B. Keith
Susan B. Keith
Deputy Administrator
Packers and Stockyards Program

Tracey Manoff
Attorney for Complainant
Marketing, Regulatory and Food Safety Programs Division
Office of the General Counsel, USDA
Room 2324, South Building
1400 Independence Ave. SW.
Washington, D.C. 20250-1400
Telephone: (202) 720-2434
Facsimile: (202) 690-4322

Birdsboro Kosher Farms Corp.
Schedule of Failure to Pay Poultry Growers When Due and Issuing NSF Checks

Farm Name	Flock Number	Purchase Type	Date Birds Moved	Number Head	Lbs "Sold"	Total Grower Payment	Due Date	Check Date	Check Number	Check Amount	Date Check Returned	Replacement Check Number	Replacement Check Amount	Date Cleared	Balance	Days Late	Exhibit Number
Robert Landis	100-2-1062	Contract	8-Jun-13	8544	39680		24-Jun-13	27-Jun-13	102	\$ 6,481.76				1-Jul-13	\$ (4,256.79)	3	A-1
			5-Jun-13	7840	38780		24-Jun-13	27-Jun-13	102	\$ 6,481.76				1-Jul-13	\$ (2,086.85)	3	
			6-Jun-13	5834	24900		24-Jun-13	27-Jun-13	102	\$ 6,481.76				1-Jul-13	\$ (0.00)	3	
				22018	103040	\$ 8,481.76											
Robert Landis	100-1-1116	Contract	27-Sep-13	250	1200		14-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 16,215.71	17	A-2
			30-Sep-13	9600	39320		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 14,203.91	10	
			1-Oct-13	6600	37420		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 12,239.36	10	
			2-Oct-13	2304	13530		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 11,529.04	10	
			2-Oct-13	1080	6880		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 11,194.09	10	
			3-Oct-13	6380	31820		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 8,151.52	10	
				22214	126670	\$ 8,127.20											
Robert Landis	100-2-1117ST	Contract	30-Sep-13	7020	33460		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 8,394.87	10	A-3
			1-Oct-13	7420	37760		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 4,412.47	10	
			2-Oct-13	6600	35420		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 2,552.92	10	
			3-Oct-13	1870	11240		21-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 1,952.82	10	
			7-Oct-13	1592	10180		28-Oct-13	31-Oct-13	2211	\$16,278.71				4-Nov-13	\$ 0.00	3	
				24302	128060	\$ 8,151.51											
Gerald Funk	105-17-1047	Contract	5-May-13	7152	27680		27-May-13	12-Jun-13	1699	\$ 4,950.63	27-Jun-13	103/003	\$ 10,278.93	8-Jul-13	\$ (6,715.01)	42	A-4
			13-May-13	4188	17450		27-May-13	12-Jun-13	1699	\$ 4,950.63	27-Jun-13	103/003	\$ 10,278.93	8-Jul-13	\$ (6,947.69)	42	
				18492	76420	\$ 4,950.63	3-Jun-13	12-Jun-13	1699	\$ 4,950.63	27-Jun-13	103/003	\$ 10,278.93	8-Jul-13	\$ (5,328.30)	35	
Gerald Funk	105-1B-1048	Contract	5-May-13	7200	28520		27-May-13	12-Jun-13	1670	\$ 5,328.30	19-Jun-13	103/003	\$ 10,278.93	8-Jul-13	\$ (3,612.97)	42	A-5
			13-May-13	5074	23100		27-May-13	12-Jun-13	1670	\$ 5,328.30	19-Jun-13	103/003	\$ 10,278.93	8-Jul-13	\$ (2,102.15)	42	
				19474	80200	\$ 5,328.30	3-Jun-13	12-Jun-13	1670	\$ 5,328.30	19-Jun-13	103/003	\$ 10,278.93	8-Jul-13	\$ 0.00	35	
Darron Grove	1114	Contract	27-Sep-13	3110	14460		14-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 16,585.24	17	A-6
			27-Sep-13	5000	24440		14-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 15,302.14	17	
			29-Sep-13	6600	33880		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 13,533.94	10	
			29-Sep-13	2514	13553		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 12,822.41	10	
			29-Sep-13	3280	16940		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 11,938.06	10	
			unknown	7800	38720		unknown	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 8,695.16	unknown	
				28304	141795	\$ 8,645.23											
Darron Grove	1115	Contract	16-Sep-13	6480	21020		7-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 7,594.61	24	A-7
			29-Sep-13	2514	13553		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 6,883.08	10	
			29-Sep-13	6160	30980		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 5,262.93	10	
			30-Sep-13	1940	7860		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 3,682.45	10	
				19794	73293	\$ 4,815.71											
Darron Grove	1115	Contract	1-Oct-13	7200	35500		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ 2,018.70	10	A-8
			2-Oct-13	5364	25880		21-Oct-13	31-Oct-13	2219	\$17,344.39				5-Nov-13	\$ (0.00)	10	
				12564	61360	\$ 3,882.45											
Laurelview	1118	Contract	3-Oct-13	6600	27260		21-Oct-13	31-Oct-13	2208	\$16,212.53				4-Nov-13	\$ 14,781.39	10	A-9
			7-Oct-13	5400	26600		28-Oct-13	31-Oct-13	2208	\$16,212.53				4-Nov-13	\$ 13,365.13	3	
			8-Oct-13	2050	10480		28-Oct-13	31-Oct-13	2208	\$16,212.53				4-Nov-13	\$ 12,422.93	3	
				14090	64640	\$ 3,789.60											
Laurelview	1119	Contract	7-Oct-13	8566	30460		28-Oct-13	31-Oct-13	2208	\$16,212.53				4-Nov-13	\$ 10,823.78	3	A-10
			7-Oct-13	6600	31540		28-Oct-13	31-Oct-13	2208	\$16,212.53				4-Nov-13	\$ 9,162.68	3	
			15-Oct-13	1179	8060		4-Nov-13	31-Oct-13	2208	\$16,212.53				4-Nov-13	\$ 8,343.53	4	
				14335	70160	\$ 4,078.40											

Birdsboro Kasher Farms Corp.

Schedule of Failure to Pay Poultry Growers When Due and Issuing NSF Checks

Farm Name	Flock Number	Purchase Type	Date Birds Moved	Number Head	Lbs "Sold"	Total Grower Payment	Due Date	Check Date	Check Number	Check Amount	Date Check Returned	Replacement Check Date	Replacement Check Number	Replacement Check Amount	Date Cleared	Balance	Days Late	Exhibit Number
Laurelview	Broiler 102-21-1120	Contract	2-Oct-13	7420	31500		21-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 5,699.78	10	A-11
			3-Oct-13	3200	14060		21-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 5,951.83	10	
			3-Oct-13	2000	9300		21-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 5,463.38	10	
			10-Oct-13	2224	13380		28-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 4,160.21	3	
				<u>14844</u>	<u>68240</u>													
						\$ 4,183.32												
Laurelview	Broiler 102-2B-1121	Contract	8-Oct-13	6480	28500		28-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 2,653.96	3	A-12
			9-Oct-13	6898	28180		28-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 1,184.51	3	
			9-Oct-13	2344	11296		28-Oct-13	31-Oct-13	2208	\$16,212.53					4-Nov-13	\$ 0.00	3	
				<u>15720</u>	<u>87946</u>													
						\$ 4,160.21												
Doug Hawthorne	Broiler 108-3B-1054	Contract	19-May-13	3600	14370		10-Jun-13	12-Jun-13	1672	\$ 5,786.70					25-Jun-13	\$ (5,088.20)	2	A-13
			22-May-13	7152	32520		10-Jun-13	12-Jun-13	1672	\$ 5,786.70					25-Jun-13	\$ (3,437.20)	2	
			23-May-13	6924	29260		10-Jun-13	12-Jun-13	1672	\$ 5,786.70					25-Jun-13	\$ (1,974.20)	2	
			23-May-13	6480	29980		10-Jun-13	12-Jun-13	1672	\$ 5,786.70					25-Jun-13	\$ 0.00	2	
				<u>24156</u>	<u>103230</u>													
						\$ 5,786.70												
Lester Weiler	Broiler 111-3B-1052	Contract	12-May-13	3600	15100		3-Jun-13	12-Jun-13	1678	\$10,631.25	19-Jun-13	N/A	N/A		21-Jun-13	\$ 9,778.10	18	A-14
			unknown	3552	18900		unknown	12-Jun-13	1678	\$10,631.25	19-Jun-13	N/A	N/A		21-Jun-13	\$ 8,710.25		
			20-May-13	5760	35440		10-Jun-13	12-Jun-13	1678	\$10,631.25	19-Jun-13	N/A	N/A		21-Jun-13	\$ 6,707.89	11	
			22-May-13	1958	11240		10-Jun-13	12-Jun-13	1678	\$10,631.25	19-Jun-13	N/A	N/A		21-Jun-13	\$ 4,980.10	11	
				<u>8000</u>	<u>39400</u>		10-Jun-13	12-Jun-13	1678	\$10,631.25	19-Jun-13	N/A	N/A		21-Jun-13	\$ 3,945.04		
				<u>26868</u>	<u>157740</u>													
						\$10,631.25												
Curvin Hoover	Broiler 115-1T-1138	Contract	4-Nov-13	7200	32080		25-Nov-13	5-Dec-13	100735	\$14,542.68						\$ 12,858.48	10	A-15
			8-Nov-13	6600	31900		25-Nov-13	5-Dec-13	100735	\$14,542.68						\$ 11,163.73	10	
			11-Nov-13	3200	19240		2-Dec-13	5-Dec-13	100735	\$14,542.68						\$ 10,173.63	3	
			19-Nov-13	4600	34540		9-Dec-13	5-Dec-13	100735	\$14,542.68						\$ 7,865.48	-4	
				<u>21600</u>	<u>117860</u>													
						\$ 6,957.20												
Curvin Hoover	Broiler 115-1B-1139	Contract	8-Nov-13	6600	31720		25-Nov-13	5-Dec-13	100735	\$14,542.68						\$ 6,220.18	10	A-16
			10-Nov-13	6720	39260		2-Dec-13	5-Dec-13	100735	\$14,542.68						\$ 4,159.03	3	
			13-Nov-13	1800	11340		2-Dec-13	5-Dec-13	100735	\$14,542.68						\$ 3,563.68	3	
			14-Nov-13	2508	16500		2-Dec-13	5-Dec-13	100735	\$14,542.68						\$ 2,697.43	3	
				<u>17770</u>	<u>12320</u>		9-Dec-13	5-Dec-13	100735	\$14,542.68						\$ 2,050.63	-4	
				<u>23960</u>	<u>22500</u>											\$ 0.00	-4	
				<u>22358</u>	<u>133940</u>													
						\$ 7,885.48												
Robert Weaver	Broiler 110-1T-1140	Contract	12-Nov-13	7200	34200		2-Dec-13	9-Dec-13	1002	\$ 6,226.62						\$ 4,431.12	7	A-17
			13-Nov-13	7200	38420		2-Dec-13	9-Dec-13	1002	\$ 6,226.62						\$ 2,518.07	7	
			13-Nov-13	21680	109240		2-Dec-13	9-Dec-13	1002	\$ 6,226.62						\$ (0.00)	7	
						\$ 6,226.62												
Robert Weaver	Broiler 110-1B-1141	Contract	13-Nov-13	3500	17460		2-Dec-13	9-Dec-13	1001	\$ 8,151.16						\$ 7,234.51	7	A-18
			21-Nov-13	8800	42760		9-Dec-13	9-Dec-13	1001	\$ 8,151.16						\$ 4,999.61	0	
			21-Nov-13	5384	41660		9-Dec-13	9-Dec-13	1001	\$ 8,151.16						\$ 2,802.46	0	
			21-Nov-13	5300	33900		9-Dec-13	9-Dec-13	1001	\$ 8,151.16						\$ (0.00)	0	
				<u>21784</u>	<u>135780</u>													
						\$ 8,151.16												